



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

July 7, 2004

URGENT LEGAL MATTER - PROMPT REPLY NECESSARY
SPECIAL NOTICE LETTER
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CT Corporation
Registered Agent For
The Lubrizol Corporation
1021 Main Street, Suite 1150
Houston, Texas 77002

Re: Patrick Bayou Superfund Site
Deer Park, Texas

9155483



Dear Sir or Madam:

This is to invite you to enter into negotiations with the U.S. Environmental Protection Agency (EPA) for the performance of a Remedial Investigation and Feasibility Study (RI/FS) for the Patrick Bayou Superfund Site (hereinafter the Site). This letter follows a general notice letter that was issued to all recipients of this letter except Rohm & Haas Company on October 10, 2002, in connection with the Site and which notified said parties of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. Section 9607(a), that may incur or may have incurred with respect to the Site. Under Section 107 of CERCLA, responsible parties are liable for the cleanup of the Site, including all costs incurred by the government in responding to releases at the Site. On behalf of the EPA, I am offering you this opportunity to enter into RI/FS negotiations because the EPA believes that you may be responsible for the cleanup of the Site under CERCLA.

The Patrick Bayou site consists of contaminated sediments within the bayou, a portion of the East Fork tributary, and associated wetlands. The 3-mile long tidal bayou is a tributary to the Houston Ship Channel and is bounded by and receives discharges from several facilities including those of Occidental Chemical Corporation (Oxy), Shell Oil Refinery (Shell Oil), Shell Chemical Company (Shell Chemical), and The Lubrizol Corporation (Lubrizol). Patrick Bayou also receives discharges from the City of Deer Park wastewater treatment plant, Praxair, Inc. (Praxair), and Rohm & Haas Company (R&H). Outfalls from Praxair and R&H reach the East Fork tributary, which discharges into Patrick Bayou. Oxy, Shell Oil, and Lubrizol were issued general notice letters based on partial ownership of the Site, as well as historic discharges and notices of violation regarding their discharge permits for having exceeded allowable levels of certain hazardous substances that have been detected in bayou sediments. Praxair was issued a general notice letter based on historic discharges and notices of violation regarding its discharge permits for having exceeded allowable levels of certain hazardous substances that have been detected in bayou sediments. R&H has been identified based on historic discharges and notices of violation regarding its discharge permits for having exceeded allowable levels of certain hazardous substances that have been detected in bayou sediments.

Internet Address (URL) - <http://www.epa.gov/earth1r6/>

Recycled/Recyclable - Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

Prior investigations conducted by the city of Houston in 1993 and 1994 along the Houston Ship Channel and its tributaries documented the presence of elevated levels of pesticides, PAHs, cadmium, chromium, mercury, nickel, zinc, and PCBs within Patrick Bayou sediments. Subsequent investigations were conducted in July 1994 during a joint Texas Natural Resource Conservation Commission (TNRCC)/EPA Ambient Toxicity and Water and Sediment Quality Survey. These investigations confirmed the accumulation of the following substances within Patrick Bayou sediments: arsenic, cadmium, chromium, copper, lead, manganese, mercury, nickel, selenium, zinc, hexachlorobenzene (HCB), bis-2-ethylhexyl phthalate, PAHs, PCBs, and pesticides. TNRCC collected sediment samples from the Bayou as part of a Site Inspection in July 2000. Patrick Bayou Site was finalized on the National Priorities List on September 5, 2002.

The purpose of the Remedial Investigation (RI) is to (a) assess site conditions and to collect data necessary to characterize the site by conducting a remedial investigation, for the purpose of developing and evaluating remedial alternatives that provide protection to public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants at the site, and gathering all necessary data to support the Feasibility Study; (b) identify and evaluate actual or potential risks to human health and the environment by conducting a Risk Assessment; (c) protect public health, welfare, and the environment by carrying out any appropriate removal actions; and (d) determine and evaluate alternatives for remedial action (if any) to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at the site, by conducting a Feasibility Study.

Pursuant to Section 122(e) of CERCLA, EPA has determined that a period of negotiation may facilitate a settlement between you and EPA for implementation of the response action. Upon receipt of the Special Notice, you have a maximum of sixty (60) days to coordinate with any other PRP to present a 'good faith offer' to conduct and/or finance the RI/FS and to negotiate an Administrative Order on Consent (AOC). If a 'good faith offer' is received in a timely manner, EPA will provide an additional 30 days to work together with the PRPs to finalize the AOC. During this negotiation moratorium, EPA will not commence the RI at the Site. However, EPA reserves the right to take action at the Site at any time should a significant threat to the human health or the environment arise. If a proposal is submitted and EPA determines that such proposal is not a 'good faith offer,' you will be notified in writing of EPA's decision to end the negotiation moratorium.

If a settlement cannot be reached within the timeframes described above, EPA may take appropriate action at the Site which could include any of the following options: EPA may issue a Unilateral Administrative Order (UAO) to you and the other PRPs under Section 106(a) to perform the work described in the SOW; if you or the other PRPs refuse to comply with the UAO, EPA may pursue civil litigation against you or the other PRPs pursuant to Section 106(a) to compel compliance; or EPA may fund the response action and pursue a Section 107 cost recovery claim against you or the other PRPs. Please note that EPA has omitted past costs from the draft AOC, identified below. Current past costs at the Site as of the end of March, 2004, which EPA will pursue in a separate action, are approximately \$218,000. Pursuit of past costs is being deferred to expedite RI/FS negotiations.

A proposed AOC is enclosed to assist you in developing a 'good faith offer'. This draft AOC is not currently binding on EPA and is subject to revision and approval by EPA. The AOC includes a plan for evaluation of available data, prior to development of an RI/FS Workplan. This initial plan would then establish the requirements for additional work. This approach should ensure that all available data is evaluated and utilized so that the RI/FS process can be

expedited, and that work is not unnecessarily duplicated. The results of the initial study would then lead to the development and documentation of a traditional RI/FS and eventual Record of Decision, so that potential remedial alternatives are considered in accordance with CERCLA and the EPA's guidance.

I ask you to call EPA Attorney Anne Foster at (214) 665-2169 or EPA Attorney Jim Bove at (214) 665-2794 before August 30, 2004, and inform EPA whether you will negotiate. Please note that this Special Notice requires you to reply in writing with a 'good faith offer' within 60 days of your receipt of this letter. If you have any questions please call Ms. Foster or Mr. Bove.

Sincerely yours,



Samuel Coleman, P.E.
Director
Superfund Division

cc: Mr. Mark Vickery, Deputy Director
Office of Permitting, Remediation and Registration
Texas Commission on Environmental Quality

Mr. Glenn Sekavec, Regional Enforcement Officer
U.S. Department of the Interior

Ms. Susan MacMullin, Regional Director
U.S. Fish and Wildlife Service

Mr. Brian Cain, Field Supervisor
U.S. Fish and Wildlife Service

Mr. Richard Seiler
Texas Natural Resource Conservation Commission

Mr. Bill Grimes
Texas General Land Office

Mr. Don Pitts
Texas Parks and Wildlife Department

Mr. Barry Forsythe
U.S. Fish and Wildlife Service

Mr. Roger Lee
U.S. Geological Survey

Mr. Lawrence Klein, Coastal Resource Coordinator
~~National Oceanic and Atmospheric Administration~~

**ADDRESSEE LIST: PARTIES RECEIVING SPECIAL NOTICE
POTENTIALLY RESPONSIBLE PARTIES
PATRICK BAYOU SITE
DEER PARK, HARRIS COUNTY, TEXAS
JUNE 2004**

The Lubrizol Corporation
Corporate Address:
The Lubrizol Corporation
29400 Lakeland Boulevard
Wickliffe, Ohio 44092

Agent for Service:
CT Corporation
Registered Agent For
The Lubrizol Corporation
1021 Main Street, Suite 1150
Houston, Texas 77002

Occidental Chemical Corporation
Corporate Address:
Occidental Chemical Corporation
5005 LBJ Freeway
Dallas, Texas 75244

Agent for Service:
CT Corporation
Registered Agent For
Occidental Chemical Corporation
350 N. St. Paul Street
Dallas, Texas 75201

Shell Oil Company
Corporate Address:
Shell Oil Company
4850 One Shell Plaza
910 Louisiana
Houston, Texas 77002

Agent for Service:
Corporation Service Company
Registered Agent For
Shell Oil Company
800 Brazos
Austin, Texas 78701

Rohm & Haas Company
Corporate Address:
Rohm & Haas Company
100 Independence Mall West
Philadelphia, Pennsylvania 19106-2399

Agent for Service:
CT Corp System
Registered Agent For
Rohm & Haas Company
350 N. St. Paul St.
Dallas, TX 75201

Praxair, Inc.
Corporate Address:
Praxair, Inc.
39 Old Ridgebury Rd.
Danbury, CT 06810

Agent for Service:
Prentice Hall Corporation System
Registered Agent For
Praxair, Inc.
800 Brazos
Austin, TX 78701